

***MINUTES***

***SCOTTSDALE CITY COUNCIL***

***TUESDAY, FEBRUARY 3, 2004***

***CITY HALL KIVA  
3939 DRINKWATER BOULEVARD  
SCOTTSDALE AZ 85251***

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**Tuesday, February 3, 2004**

**CALL TO ORDER**

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Tuesday, February 3, 2004 in the Kiva, City Hall, at 5:15 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Wayne Ecton  
Council Members Robert Littlefield, Ned O'Hearn, Roberta Pilcher,  
David Ortega, and Tom Silverman

Also Present: City Manager Jan Dolan  
City Attorney Joseph Bertoldo  
City Clerk Carolyn Jagger

**Pledge of Allegiance**

Councilman Littlefield led the audience in the pledge.

**Invocation**

Reverend Jack Sylvester of Brotherhood of Man gave the invocation.

**Announcement**

Mayor Manross read a proclamation proclaiming April 16, 2004, the day of EnviroKidsFest '04, to be Scottsdale's official Earth Week event as part of Scottsdale Clean and Beautiful Month.

**Public Comment**

**Nick Luongo, 9542 E Rockwood Dr, 85255**, expressed concerns about airport issues and the abolishment of the airport noise committee.

**Michael Merrill, 8718 E Vernon Av, 85257**, discussed code enforcement of animal control issues.

**Minutes**

SPECIAL MEETINGS  
January 14, 2004

COUNCILWOMAN PILCHER MOVED FOR APPROVAL OF THE SPECIAL MEETING MINUTES OF JANUARY 14, 2004. COUNCILMAN ORTEGA SECONDED THE MOTION, WHICH CARRIED 7-0.

## CONSENT AGENDA      ITEMS 1 – 12A

### 1.      **Pizza Peak Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing location, currently operating with a series 12 license under the same business name.

**Location:** 8711 E. Pinnacle Peak Rd. #341

**Reference:** 97-LL-2003

**Staff Contact(s):** Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov); Robert Bushfield, Development Review and Permit Services Director, 480-312-7096, [rbushfield@scottsdaleaz.gov](mailto:rbushfield@scottsdaleaz.gov)

### 2.      **The House of Rice Store Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 10 (beer/wine bar) State liquor license for an existing grocery store.

**Location:** 3221 N. Hayden Rd.

**Reference:** 98-LL-2003

**Staff Contact(s):** Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov); Robert Bushfield, Development Review and Permit Services Director, 480-312-7096, [rbushfield@scottsdaleaz.gov](mailto:rbushfield@scottsdaleaz.gov)

### 3.      **Meridian Contemporary Dining Liquor License**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for an existing restaurant that previously operated with a series 12 (restaurant) license under the business name Restaurant Oceana.

**Location:** 8900 E. Pinnacle Peak Rd.

**Reference:** 99-LL-2003

**Staff Contact(s):** Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov); Robert Bushfield, Development Review and Permit Services Director, 480-312-7096, [rbushfield@scottsdaleaz.gov](mailto:rbushfield@scottsdaleaz.gov)

### 4.      **On the Rocks Liquor License; downtown location**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 6 (bar) State liquor license for an existing bar location.

**Location:** 2515 N. Scottsdale Rd. #5

**Reference:** 100-LL-2003

**Staff Contact(s):** Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov); Robert Bushfield, Development Review and Permit Services Director, 480-312-7096, [rbushfield@scottsdaleaz.gov](mailto:rbushfield@scottsdaleaz.gov)

**5. On the Rocks Liquor License; northern location**

**Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license for a currently vacant location which previously operated with a series 12 license under the business name Crew: An Eat Place.

**Location:** 34505 N. Scottsdale Rd. #H-4

**Reference:** 102-LL-2003

**Staff Contact(s):** Kroy Ekblaw, Planning and Development Services General Manager, 480-312-7064, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov); Robert Bushfield, Development Review and Permit Services Director, 480-312-7096, [rbushfield@scottsdaleaz.gov](mailto:rbushfield@scottsdaleaz.gov)

**6. Approval of application and acceptance, if successful, of an Arizona Heritage Grant in the amount of \$500,000 for the Chaparral Park Expansion project**

**Requests:**

- Adopt Resolution No. 6432 authorizing the Community Service Department to apply for a \$500,000 Arizona Heritage Fund grant from Arizona State Parks.
- Authorize accepting the grant funds, in the event the application is successful.
- Authorize a capital project budget increase in the amount of the successful grant award in the Chaparral Park Expansion capital project (402-P0206).

The grant will be used to supplement current funding for the development of outdoor recreational amenities in addition to the amenities included in the Chaparral Park Expansion Public Use Site capital project (402-P0206). The City's grant match requirements will be met by expenditure currently approved for this capital project.

**Staff Contact(s):** Debra Baird, Community Services Interim General Manager, [dbaird@scottsdaleaz.gov](mailto:dbaird@scottsdaleaz.gov); Gary Meyer, Parks/Trails Planning Manager, 312-2357, [gmeyer@scottsdaleaz.gov](mailto:gmeyer@scottsdaleaz.gov)

**7. Construction Bid Award for 40 new Bus Shelters**

**Request:** Authorize Construction Bid Award No. 04PB036 to Krisdan Company, the lowest responsive bidder, at their lump sum bid of \$642,795.20 to install 40 new bus shelters at various locations throughout the City. If approved, the first 10 more heavily used locations will be installed by the end of June 2004; the other 30 locations will be completed in September 2004.

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov); Marek Urbanek, Project Manager, 480-312-2563, [murbanek@scottsdaleaz.gov](mailto:murbanek@scottsdaleaz.gov)

**8. Acquisition of one-acre property for future location of arsenic removal treatment facility**

**Request:** Adopt Resolution No. 6436 authorizing the acquisition of real property at 26602 North 70th Place (a vacant residential lot approximately one acre in size) from Michael and Patricia Mancini in the amount of \$175,000, plus closing costs of approximately \$2,500. This parcel will be utilized for future construction of an arsenic removal treatment facility for drinking water.

**Related Policies, References:**

- a. US Environmental Protection Agency Final Rule reducing the maximum level of arsenic allowed in drinking water dated January 24, 2001
- b. Water Resources Master Plan, approved by City Council on October 15, 2001

- c. Engineering Services Contract No. 2002-139-COS with Narasimhan Consulting Services, approved by City Council on November 18, 2002

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov); Jean Morris, Right of Way Agent, 480-312-7853, [jmorris@scottsdaleaz.gov](mailto:jmorris@scottsdaleaz.gov); Dave Mansfield, Water Resources General Manager, 480-312-5681, [dmansfield@scottsdaleaz.gov](mailto:dmansfield@scottsdaleaz.gov); Joe Gross, Water Resources Director, 480-312-5628 [jgross@scottsdaleaz.gov](mailto:jgross@scottsdaleaz.gov)

**9. WestWorld Arenas 6, 7 and 8 Relocation Project**

**Requests:**

1. Authorize Architectural Services Contract No. 2004-007-COS with Bernard Deutsch Associates, Inc., in the amount of \$77,828 for the design of Arenas 6, 7, and 8 Relocation at WestWorld.
2. Authorize a capital contingency fund transfer in the amount of \$300,000 to CIP Account No. D0206 (WestWorld Arenas 6, 7 & 8).

**Related Policies, References:**

- Development Review Board (Case #116-DR-93, #2, 3 & 4), May 1994 - related to WestWorld entry signage, re-vegetation, and Western Theme Park
- Planning Commission (Case #20-ZN-1995 #2), January 28, 2003 – WestWorld Master Development Plan
- City Council – WestWorld Master Development Plan, March 18, 2003
- Development Review Board (Case #41-DR-2003), July 10, 2003 – WestWorld Design Guidelines

**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-5555, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov); Annette Grove, Sr. Project Manager, 480-312-2399, [Agrove@scottsdaleaz.gov](mailto:Agrove@scottsdaleaz.gov).

**10. Acceptance of \$224,311 grant to purchase crime laboratory DNA equipment and to fund staff overtime to examine DNA felony backlog cases**

**Request:**

Adopt Resolution No. 6438 authorizing the Police Department to accept the National Institute of Justice No Suspect Casework DNA (deoxyribonucleic acid) Backlog Reduction Program (FY 2003) grant from the Arizona Department of Public Safety in the amount of \$224,311. The grant does not require the City to match the grant funds.

The Police Department will use the grant to purchase a DNA sequence detection system and related DNA supplies as well as pay for overtime salaries required to complete this program. The equipment and supplies will be used to process the Police Department's 'no suspect' backlog casework and identify possible suspects using DNA profiling. The FY 2003/04 Grants budget includes budget for this grant.

**Related Policies, References:** This agreement is made under the authority of A.R.S. §41-1713,B, (3). Reference National Institute of Justice Federal Grant #2003-DN-BX-K020, CFDA #16-564

**Staff Contact(s):** Alan Rodbell, Chief of Police, 480-312-5310, [arodbell@scottsdaleaz.gov](mailto:arodbell@scottsdaleaz.gov); Allen Steve Garrett, Forensic Services Division Manager, 480-312-5280, [sgarrett@scottsdaleaz.gov](mailto:sgarrett@scottsdaleaz.gov)

**11. Settlement of *City of Scottsdale v. Skyridge Estates*, a Preserve condemnation case**

**Requests:**

1. Adopt Resolution 6441 to authorize the City Attorney to settle *City of Scottsdale v. Skyridge Estates*, a Preserve condemnation case, Superior Court Case number CV1999-013646.
2. Authorize a CIP General Fund cash transfer of \$1,775,000, plus interest, to the Preservation Capital Project to pay for the 20-acre parcel that is outside the original boundary of the Preserve. The Preserve tax funds cannot be used to acquire land that is outside the Preserve boundary as approved by voters. \$941,744 of the CIP General Fund cash transfer will be repaid in June 2005 from the proceeds received from the Sinclair Oil contract. The settlement amount for the 20-acre "in" parcel is budgeted and will be paid from the McDowell Sonoran Preserve fund. The settlement interest will be calculated by the Court at the time of close.

**Related Policies, References:** Resolution No. 5336, which authorized the condemnation of the 20-acre "in" parcel, and Resolution No. 5403, which authorized the condemnation of the 20-acre "out" parcel, in Skyridge Estates for the McDowell Sonoran Preserve.

**Staff Contact(s):** Robert J. Cafarella, Preservation Director, 480-312-2577, [rcafarella@scottsdaleaz.gov](mailto:rcafarella@scottsdaleaz.gov); Bruce Washburn, Assistant City Attorney, 480-312-2405, [bwashburn@scottsdaleaz.gov](mailto:bwashburn@scottsdaleaz.gov); Ed Gawf, Deputy City Manager, 480-312-4510, [egawf@scottsdaleaz.gov](mailto:egawf@scottsdaleaz.gov)

Mayor Manross opened public testimony.

**Lyle Wurtz, 6510 E Palm Ln, 85257**, expressed concerns about the cost of land in the area. He questioned what the Sinclair Oil deal was and why money was being advanced from the CIP.

Mayor Manross closed public testimony.

Ms. Dolan explained that the Sinclair Oil contract was part of the Stillman Fund put aside for open space purchases. She clarified that Attorney fees are funded out of preserve tax funds, but staff salaries are not.

**12. Contract extensions to obtain impartial traffic impact and mitigation analysis for development applications.**

**Request:** Consider adoption of Resolution No. 6443 to authorize the second annual extension of the following four-year contracts: #2001-155-COS with Parsons Brinckerhoff; #2001-156-COS with United Civil Group; and #2001-158-COS with Kirkham Michael. These firms provide traffic-engineering services to the City under the Traffic Impact and Mitigation Analysis (TIMA) Program. Note: the development applicants are still responsible for the costs for these services.

**Related Policies, References:** Resolution No. 5953 established the original contracts; City Procurement Code

**Staff Contact(s):** John Little, Transportation General Manager, (480) 312-2539, [jlittle@scottsdaleaz.gov](mailto:jlittle@scottsdaleaz.gov); Phillip Kercher, Contract Administrator, (480)-312-7645, [pkchercher@scottsdaleaz.gov](mailto:pkchercher@scottsdaleaz.gov)

**12A. Buffalo Bill Historical Center Fundraising Feasibility Study**

**Request:** City Council spending authority to provide funding not to exceed \$50,000 from the City's contingency budget to be reimbursed by the Community Arts Trust Fund #280-05901 to the Buffalo Bill Historical Center to conduct a fundraising feasibility study and assessment. Note: technically and for budgeting purposes, these funds and spending authority originate from the General Fund Contingency, but will be replaced/reimbursed by funds from the Community Arts Trust Fund. Therefore, there will be no impact to the General Fund.

**Related Policies, References:** Resolution No. 6027 and Redevelopment Agreement 2002-024-COS between the Arts District Group L.L.C. and the City of Scottsdale.

**Staff Contacts:** Janet M. Dolan, City Manager, 480-312-2422, [jdolan@scottsdaleaz.gov](mailto:jdolan@scottsdaleaz.gov); John Little, Downtown Executive Director, 480-312-2539, [jlittle@scottsdaleaz.gov](mailto:jlittle@scottsdaleaz.gov)

**MOTION AND VOTE – CONSENT AGENDA**

COUNCILMAN ORTEGA MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1 THROUGH 12A. COUNCILMAN O'HEARN SECONDED THE MOTION, WHICH CARRIED 7-0.

**REGULAR AGENDA            ITEMS 13 - 15**

**13. City View Estates Rezoning**

**Request(s):**

1. To rezone from Single Family Residential, Environmentally Sensitive Lands District (R1-190 ESL) to Single Family Residential, Environmentally Sensitive Lands District (R1-70 ESL) on a 19 +/- acre parcel located at the southwest corner of Happy Valley and Alma School Roads.
2. Adopt Ordinance No. 3552 affirming the above rezoning.

**Location:** E. Happy Valley Rd./Alma School Rd. (southwest corner)

**Reference:** 3-ZN-2003

**Staff Contact(s):** Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov); Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@scottsdaleaz.gov](mailto:tcurtis@scottsdaleaz.gov)

Randy Grant reviewed the current zoning, as well as the General Plan, for the area around Happy Valley and Alma School roads. He noted that the Planning Commission had recommended denial of this case by a vote of 5-1.

Mayor Manross opened public testimony.

**Loretta Edger, 24350-44 Whispering Ridge Way, 85255**, spoke in opposition of the proposed rezoning saying she would like to see the lifestyle of the area maintained.

**Charles B. Smith, 10195 E Whispering Wind Dr, 85255**, said he was against the rezoning because of how it might affect zoning of surrounding vacant properties.

**G. William Dauphinais, 10801 E Happy Valley Rd, 85255**, opposed the rezoning since he believed it would only benefit the developer.



Mayor Manross closed public testimony.

One additional comment card was received from a citizen opposed to the proposed action who did not wish to speak.

The applicant was not in attendance.

Councilman Silverman said he saw no compelling reason to double the zoning. He noted that all the neighbors were against it as well.

### **MOTION AND VOTE – ITEM 13**

COUNCILMAN SILVERMAN MOVED FOR DENIAL OF ZONING REQUEST 3-ZN-2003 AND ORDINANCE 3552. VICE MAYOR ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

#### **14. Centennial Marketplace General Plan Amendment and Rezoning**

**Requests:** Approve:

1. A General Plan Amendment (non-major) from Office (minor) to Commercial;
2. A rezoning from Planned Community District, Service Residential District (PCD S-R) to Planned Community District, Planned Neighborhood Center (PCD PNC) with amended development standards and revised stipulations;
3. A conditional use permit for a health studio;
4. Adopt Resolution No. 6437 affirming the above General Plan Amendment; and
5. Adopt Ordinance No. 3551 affirming the above rezoning, stipulations and amended development standards.

On a 7.79 +/- acre parcel located at the northwest corner of 100th Street and Frank Lloyd Wright Boulevard.

**Location:** N. 100th St./Frank Lloyd Wright Bl. (northwest corner)

**Reference:** 4-GP-2003, 61-ZN-1982#2 & 24-UP-2003

**Staff Contact(s):** Randy Grant, Chief Planning Officer, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov); Tim Curtis, Project Coordination Manager, 480-312-4210, [tcurtis@scottsdaleaz.gov](mailto:tcurtis@scottsdaleaz.gov)

Kurt Jones reviewed the case noting the zoning of surrounding parcels and impacts of the proposed development.

**John Berry**, representing the applicant, discussed the work the applicant did with the neighborhood for the past nineteen months, and the support he has received from most of them. He pointed out that the building square footage has been lowered by 38% with a reduction in height as well. In addition, a landscaped median would be constructed on 100<sup>th</sup> Street, even though that was not a requirement. Mr. Berry stated his belief that this was the best type of in-fill development for the area.

Mayor Manross opened public testimony.

**Thomas Weaver, 10136 E Flonade Dr, 85260**, said he was originally opposed to the project. He enjoyed the existing habitat for a long time, but he was now very supportive of the plan.



**Michael Wright, 10160 E Meadow Hill, 85260**, objected to the proposed project and denied his HOA had approved it. He didn't object to the change from office to commercial, but to the tweaking by the developer.

**Thomas Coe, 14246 N 99<sup>th</sup> St, 85260**, presented a copy of the amended development standards and discussed the confusion surrounding the case.

**Sheila Cohen, 14390 N 99<sup>th</sup> St, 85260**, said she was not against the marketplace and liked the PNC zoning, but had concerns about the size of the fitness center. She stated her belief that there is a saturation of gyms and drug stores in the area. She asked council to consider using rubberized asphalt on 100<sup>th</sup> Street.

**Mark Malouf, 14294 N 99<sup>th</sup> St, 85260**, stated his opinion that the proposed project would be an asset to the community. He noted that he had never seen such care from a developer.

**Mark Ortega, 10011 E Sheena Dr, 85260**, spoke in support of the project and was pleased with reduction in size of the fitness facility.

**John Groh, 9844 E Gelding Dr, 85260**, spoke in support of the proposal and expressed disappointment in some neighbors who had spread falsehoods about him.

**John Baird, 10177 E Floriade Dr, 85260**, wondered why a health studio required a conditional use permit and a fitness center did not. Kurt Jones explained.

Mayor Manross closed public testimony.

Two additional comment cards were received from citizens opposed to the project but not wishing to speak.

#### **MOTION – ITEM 14**

COUNCILMAN ORTEGA MOVED FOR APPROVAL OF:

1. A General Plan Amendment (non-major) from Office (minor) to Commercial;
2. A rezoning from Planned Community District, Service Residential District (PCD S-R) to Planned Community District, Planned Neighborhood Center (PCD PNC) with amended development standards and revised stipulations;
6. A conditional use permit for a health studio;
7. Adopt Resolution No. 6437 affirming the above General Plan Amendment; and
8. Adopt Ordinance No. 3551 affirming the above rezoning, stipulations and amended development standards.

IN ADDITION, ALL REQUIREMENTS FOR A USE PERMIT REGARDING NOISE AND OTHER DISTURBANCES ARE MITIGATED. COUNCILWOMAN PILCHER SECONDED THE MOTION (which carried 7/0).

Council discussion ensued and it was agreed the project would be positive for the area.

Following the discussion, THE MOTION FOR APPROVAL CARRIED 7-0.

**15. Reconsider North Scottsdale Collision Rezoning**

**Request:** Determine whether the City Council will reconsider Case No. 15-ZN-2003 (North Scottsdale Collision Rezoning) at a future City Council meeting date to be determined.

**Staff Contacts:** Randy Grant, 480-312-7995, [rgrant@scottsdaleaz.gov](mailto:rgrant@scottsdaleaz.gov); Pat Boomsma, 480-312-2660, [pboomsma@scottsdaleaz.gov](mailto:pboomsma@scottsdaleaz.gov)

Councilman Silverman felt it would be prudent to rehear the case since it was defeated by a vote of 3/3 with one councilperson absent.

COUNCILMAN SILVERMAN MOVED TO RECONSIDER CASE 15-ZN-2003 AT A FUTURE DATE TO BE DETERMINED. COUNCILWOMAN PILCHER SECONDED THE MOTION, WHICH CARRIED 7-0.

**Public Comment** - None

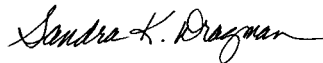
**City Manager's Report** - None

**Mayor and Council Items** - None

**Adjournment**

With no further business to discuss, Mayor Manross adjourned the meeting at 6:46 P.M.

**SUBMITTED BY:**



**Sandy Dragman**  
Recording Secretary

**REVIEWED BY:**

**Carolyn Jagger**  
City Clerk

## **C E R T I F I C A T E**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 3rd day of February 2004.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this 6th day of February 2004.

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**CAROLYN JAGGER**  
**City Clerk**